

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER
10-CR-0352

BRION WARRICK,

Defendant.

This case was referred to Magistrate Judge H. Kenneth Schroeder Jr. for supervision of all pretrial proceedings. On February 18, 2011, Defendant filed a motion seeking suppression of evidence seized from an automobile in which he was a passenger and statements he made at the time of his arrest. An evidentiary hearing was held before Magistrate Judge Schroeder on April 26 and May 2, 2011. The parties then had an opportunity to file post-hearing briefs.

On April 13, 2012, Magistrate Judge Schroeder issued a Report and Recommendation recommending that Defendant's suppression motion be denied in its entirety. On May 1, 2012, Defendant submitted Objections to the Magistrate Judge's Report and Recommendation. The Government filed a response to Defendant's Objections on May 15, 2012. Oral argument was scheduled before this Court for October 25, 2012. On that date, the Government and Defendant were present. However, counsel for Defendant failed to appear. The Court deemed the matter submitted without oral argument.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, Defendant's motion to suppress evidence seized from an automobile in which he was a passenger and statements he made at the time of his arrest is denied in all respects. The parties shall appear before this Court on November 16, 2012 at 1:00 pm for a status conference and/or meeting to set trial date.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: November 13, 2012